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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
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8
9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 **CAROLYN NAVARRO,**

) Case No. **CV10 3001 1SS**

12 **Plaintiff,**

) **COMPLAINT FOR VIOLATION**

13 **vs.**

) **OF FEDERAL FAIR DEBT**

14 **FINANCIAL RECOVERY**
15 **SERVICES, INC.,**

) **COLLECTION PRACTICES ACT**

) **AND ROSENTHAL FAIR DEBT**

) **COLLECTION PRACTICES ACT**

16 **Defendant.**

)

)

)

20 **I. INTRODUCTION**

21 1. This is an action for damages brought by an individual consumer for
22 Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C.
23 §1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection
24 Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of
25 which prohibit debt collectors from engaging in abusive, deceptive, and unfair
26 practices.

1
II. JURISDICTION

2 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k (d).
3

4
III. PARTIES

5 3. Plaintiff, Carolyn Navarro (“Plaintiff”), is a natural person residing
6 in Los Angeles county in the state of California, and is a “consumer” as defined
7 by the FDCPA, 15 U.S.C. §1692a(3) and is a “debtor” as defined by Cal Civ
8
9 Code §1788.2(h).
10

11 4. At all relevant times herein, Defendant, Financial Recovery Services,
12 Inc. (“Defendant”) was a company engaged, by use of the mails and telephone, in
13 the business of collecting a debt from Plaintiff which qualifies as a “debt,” as
14 defined by 15 U.S.C. §1692a(5), and a “consumer debt,” as defined by Cal Civ
15 Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due
16 another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C.
17
18 §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).
19

20
IV. FACTUAL ALLEGATIONS

21 5. At various and multiple times prior to the filing of the instant
22 complaint, including within the one year preceding the filing of this complaint,
23 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.
24 Defendant’s conduct violated the FDCPA and the RFDCPA in multiple ways,
25
26 including but not limited to:
27
28

- 1 a) Using unfair or unconscionable means against Plaintiff
2 in connection with an attempt to collect a debt,
3 including, but not limited to, calling Plaintiff more than
4 twice day, not identifying who the caller or what
5 company is calling, and implying that the call has
something to do with taxes or tax season (§1692f);
- 6 b) Collecting an amount from Plaintiff that is not expressly
7 authorized by the agreement creating the debt
8 (§1692f(1));
- 9 c) Collecting an amount from Plaintiff that is not permitted
10 by law (§1692f(1));
- 11 d) Communicating with Plaintiff at times or places which
12 were known or should have been known to be
13 inconvenient for Plaintiff (§1692c(a)(1));
- 14 e) Engaging in conduct the natural consequence of which
15 is to harass, oppress, or abuse Plaintiff, including, but
16 not limited to, calling Plaintiff more than twice day, not
17 identifying who the caller or what company is calling,
18 and implying that the call has something to do with
19 taxes or tax season (§1692d));
- 20 f) Causing Plaintiff's telephone to ring repeatedly or
21 continuously with intent to harass, annoy or abuse
22 Plaintiff, including, but not limited to, calling Plaintiff
23 more than twice a day and more than ten times a week
24 (§ 1692d(5)); and
- 25 g) Where Defendant had not yet made an attempt to
26 contact Plaintiff's counsel or had not given Plaintiff's
27 counsel sufficient time to respond to the initial attempt
28 to communicate with Plaintiff's counsel, and where
Plaintiff's counsel had not given Defendant permission
to contact Plaintiff directly, communicating with

1 Plaintiff directly after learning that Plaintiff is being
2 represented by counsel, including, but not limited to,
3 calling Plaintiff directly after Plaintiff's counsel sent
4 two letters to Defendant in March, 2010 (§ 1692c(a)(2)).
5
6

7 6. As a result of the above violations of the FDCPA and RFDCPA
8 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal
9 humiliation, embarrassment, mental anguish and emotional distress, and
10 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
11 and costs and attorney's fees.

12
13 **COUNT I: VIOLATION OF FAIR DEBT
14 COLLECTION PRACTICES ACT**

15 7. Plaintiff reincorporates by reference all of the preceding paragraphs.

16
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully prays that judgment be entered
19 against the Defendant for the following:

20
21 A. Declaratory judgment that Defendant's conduct
22 violated the FDCPA;
23 B. Actual damages;
24 C. Statutory damages;
25 D. Costs and reasonable attorney's fees; and,
26 E. For such other and further relief as may be just and proper.
27
28

**COUNT II: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

8. Plaintiff reincorporates by reference all of the preceding paragraphs.

9. To the extent that Defendant's actions, counted above, violated the

RFDCPA, those actions were done knowingly and willfully.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 19th day of April, 2010.

By:

TODD M. FRIEDMAN (216752)
LAW OFFICES OF TODD M.
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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE TO COUNSEL
(MAGISTRATE JUDGE CIVIL CONSENT PILOT PROJECT)

The court has directed that the following rules be specifically called to your attention:

- I. Notice of Right to Consent to Disposition of a Civil Case by a United States Magistrate Judge [28 U.S.C. § 636(c) and General Order 08-09].
- II. Continuing Obligation to Report Related Cases (Local Rule 83-1.3.3)
- III. Service of Papers and Process (Local Rule 4)

L. **NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE BY A UNITED STATES MAGISTRATE**

Pursuant to Local Rule 73-2, the initiating party must serve this notice and consent form CV-11C on each party at the time of service of the summons and complaint or other initial pleading.

This case has been randomly assigned to Magistrate Judge Segal under the Civil Consent Pilot Project in accordance with General Order 08-09. The case number on all documents filed with the court should read as follows: CV10 3001

The parties are advised that they may consent to have the assigned magistrate judge conduct all further proceedings in the case, including trial and final entry of judgment pursuant to 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73. The parties may consent to proceed only before the assigned magistrate judge.

The parties are further advised that they are free to withhold consent without adverse substantive consequences. If the parties agree to the exercise of jurisdiction by the magistrate judge, the parties shall jointly or separately file a statement of consent setting forth such election. For cases originally filed in district court and initially assigned only to a magistrate judge, the statement of consent shall be filed within 30 days after service of the summons and complaint upon that defendant, and within 30 days by plaintiff after service upon the first-served defendant.

For cases removed from state court and initially assigned only to a magistrate judge, a joint or separate statements of consent shall be filed by plaintiff and all defendants upon whom service has been effected, within 11 days after the notice of removal is filed.

Since magistrate judges do not handle felony criminal trials, civil trial dates are not at risk of being preempted by a felony criminal trial, which normally has priority. Further, in some cases, the magistrate judge may be able to assign an earlier trial date than a district judge. There may be other advantages or disadvantages which you will want to consider.

Any appeal from a judgment of the magistrate judge shall be taken to the United States Court of Appeals in the same manner as an appeal from any other judgment of the district court in accordance with 28 U.S.C. §636(c)(3).

If a party has not consented to the exercise of jurisdiction by the magistrate judge within the time

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR, OR, PLAINTIFF
OR DEFENDANT IF PLAINTIFF OR DEFENDANT IS PRO PER

ATTORNEYS FOR:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CAROLYN NAVARRO v. FINANCIAL RECOVERY SERVICES, INC.	Plaintiff(s),	CASE NUMBER CV10- 3001 SS
	Defendant(s)	STATEMENT OF CONSENT TO PROCEED BEFORE A UNITED STASTES MAGISTRATE JUDGE (For use in Magistrate Judge Civil Consent Pilot Project Cases only)

**THIS FORM SHALL BE USED ONLY FOR CASES IN WHICH A MAGISTRATE JUDGE IS
INITIALLY ASSIGNED PURSUANT TO LOCAL RULE 73-2**

All parties to the above-captioned civil matter are to check one of the two following options and file this document with the Clerk's Office:

In accordance with the provisions of 28 U.S.C. § 636(C) and F.R.Civ.P.73(b), the party or parties listed below to the above-captioned civil matter hereby waive their right to proceed before a District Judge and Consent to have the assigned Magistrate Judge Suzanne H. Segal conduct all further proceedings in the case, including trial and entry of final judgment.

Any appeal from a judgment of the assigned Magistrate Judge shall be taken to the United States Court of Appeals in the same manner as an appeal from any other judgment of the District Court in accordance with 28 U.S.C. § 636(c)(3).

The party or parties listed below to the above-captioned civil matter Do Not Consent to proceed before the assigned Magistrate Judge Suzanne H. Segal.

The party or parties listed below acknowledge that they are free to withhold consent without adverse substantive consequences.

Name of Counsel (OR Party if Pro Per)

Signature and date

Counsel for (Name Parties)

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check this box if all parties have consented to proceed before the assigned Magistrate Judge.

NOTICE TO COUNSEL FROM CLERK

All parties having consented to proceed before the assigned magistrate judge, this case will remain assigned to United States Magistrate Judge Suzanne H. Segal for all further proceedings.

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 Law Offices of Todd M. Friedman, P.C.
 369 S. Doheny Dr., #415
 Beverly Hills, CA 90211
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 Fax: 866-633-0228

ORIGINAL

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

CAROLYN NAVARRO, v. FINANCIAL RECOVERY SERVICES, INC.	PLAINTIFF(S)	CASE NUMBER
	DEFENDANT(S).	CV10 3001 SS
SUMMONS		

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Todd M. Friedman, whose address is Law Offices of Todd M. Friedman, 369 S. Doheny Dr., #415, Beverly Hills, CA 90211. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: APR 22 2010

CHRISTOPHER POWERS
 By: _____
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

I (a) PLAINTIFFS (Check box if you are representing yourself)
Carolyn NavarroDEFENDANTS
Financial Recovery Services, Inc.

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Todd M. Friedman, Esq. Law Offices of Todd M. Friedman, P.C.
369 S. Doheny Dr., #415, Beverly Hills, CA 90211

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

Citizen of This State

PTF DEF

 1 1 Incorporated or Principal Place of Business in this State 4 4

Citizen of Another State

PTF DEF

 2 2 Incorporated and Principal Place of Business in Another State 5 5

Citizen or Subject of a Foreign Country

PTF DEF

 3 3 Foreign Nation 6 6

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify): 6 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: Yes No MONEY DEMANDED IN COMPLAINT: \$VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
15 USC 1692 Violation of the Fair Debt Collection Practices Act

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES

400 State Reapportionment
 410 Antitrust
 430 Banks and Banking
 450 Commerce/ICC Rates/etc.
 460 Deportation
 470 Racketeer Influenced and Corrupt Organizations
 480 Consumer Credit
 490 Cable/Sat TV
 810 Selective Service
 850 Securities/Commodities/ Exchange
 875 Customer Challenge 12 USC 3410
 890 Other Statutory Actions
 891 Agricultural Act
 892 Economic Stabilization Act
 893 Environmental Matters
 894 Energy Allocation Act
 895 Freedom of Info. Act
 900 Appeal of Fee Determination Under Equal Access to Justice
 950 Constitutionality of State Statutes

CONTRACT

110 Insurance
 120 Marine
 130 Miller Act
 140 Negotiable Instrument
 150 Recovery of Overpayment & Enforcement of Judgment
 151 Medicare Act
 152 Recovery of Defaulted Student Loan (Excl. Veterans)
 153 Recovery of Overpayment of Veteran's Benefits
 160 Stockholders' Suits
 190 Other Contract
 195 Contract Product Liability
 196 Franchise

REAL PROPERTY

210 Land Condemnation
 220 Foreclosure
 230 Rent Lease & Ejectment
 240 Torts to Land
 245 Tort Product Liability
 290 All Other Real Property

TORTS

310 Airplane
 315 Airplane Product Liability
 320 Assault, Libel & Slander
 330 Fed. Employers' Liability
 340 Marine
 345 Marine Product Liability
 350 Motor Vehicle
 355 Motor Vehicle Product Liability
 360 Other Personal Injury
 362 Personal Injury-Med Malpractice
 365 Personal Injury-Product Liability
 368 Asbestos Personal Injury Product Liability

IMMIGRATION

462 Naturalization Application
 463 Habeas Corpus-Alien Detainee
 465 Other Immigration Actions

TORTS

PERSONAL PROPERTY

370 Other Fraud
 371 Truth in Lending
 380 Other Personal Property Damage
 385 Property Damage
 422 Appeal 28 USC 158
 423 Withdrawal 28 USC 157

CIVIL RIGHTS

441 Voting
 442 Employment
 443 Housing/Accommodations
 444 Welfare
 445 American with Disabilities - Employment
 446 American with Disabilities - Other
 447 Other Civil Rights

PRISONER PETITIONS

510 Motions to Vacate Sentence
 530 General
 535 Death Penalty
 540 Mandamus/Other
 550 Civil Rights
 555 Prison Condition

FORFEITURE/PENALTY

610 Agriculture
 620 Other Food & Drug
 625 Drug Related Seizure of Property 21 USC 881
 630 Liquor Laws
 640 R.R. & Truck
 650 Airline Regs
 660 Occupational Safety /Health
 690 Other

LABOR

710 Fair Labor Standards Act
 720 Labor/Mgmt. Relations
 730 Labor/Mgmt. Reporting & Disclosure Act
 740 Railway Labor Act
 790 Other Labor Litigation
 791 Empl. Ret. Inc. Security Act

PROPERTY RIGHTS

820 Copyrights
 830 Patent
 840 Trademark

SOCIAL SECURITY

861 HIA (1395ff)
 862 Black Lung (923)
 863 DIWC/DIWV (405(g))

FEDERAL TAX SUITS

864 SSID Title XVI
 865 RSI (405(g))
 870 Taxes (U.S. Plaintiff or Defendant)
 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: CV10 3001

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
 If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events; or
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Minnesota

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
 Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ Date April 19, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))